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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CARLOS CARILLO, an individual

Plaintiff,

vs.

STEPHEN R. KOPOLOW, P.C., a Nevada
Professional Corporation; CACH, LLC, a
Colorado Limited Liability Company

Defendants.

Case No.: 2:12-cv-01416

**FIRST AMENDED COMPLAINT FOR
VIOLATIONS OF THE FAIR DEBT
COLLECTION PRACTICES ACT**

COMPLAINT

Plaintiff, CARLOS CARILLO (hereinafter referred to as "PLAINTIFF") by and through the undersigned attorney, alleges upon knowledge as to himself and his own acts, and upon information and belief as to all other matters, brings this complaint against the above-named defendant and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. PLAINTIFF brings this action on his own behalf for actual and statutory damages arising from Defendants' violations of the Fair Debt Collection Practices Act

(hereinafter referred to as the “FDCPA”), 15 U.S.C. § 1692, *et seq.*, and Nevada Revised Statutes.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331, and supplemental jurisdiction exists for the state law claims under 28 U.S.C. § 1367.

3. Venue in this District is proper because PLAINTIFF and DEFENDANT reside and/or do business in the District of Nevada. Venue is also proper in this district because the acts and transactions that give rise to this action occurred, in substantial part, in the District of Nevada.

PARTIES

4. PLAINTIFF is a natural person who resides in Nevada.

5. PLAINTIFF is a “consumer” as defined in the FDCPA at 15 U.S.C. § 1692a(3)

6. PLAINTIFF allegedly owes (past due) consumer debt as defined by 15 U.S.C. § 1692a(5) and NRS § 649.010.

7. STEPHEN R. KOPOLOW, P.C. (hereinafter referred to as “KOPOLOW”) is a Nevada Professional Corporation, the principal purpose of whose business is the collection of debts.

8. CACH, LLC (hereinafter referred to as “CACH”) is a Colorado limited liability company, doing business in Nevada, the principal purpose of whose business is the collection of debts. KOPOLOW and CACH are jointly referred to as “DEFENDANTS”.

9. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS regularly collect or attempt to collect consumer debts owed or due or asserted to be owed or due another and that the DEFENDANTS are “debt collectors” as defined by 15 U.S.C. § 1692a(6).

1 15. On or about May 29, 2012, counsel for PLAINTIFF sent a letter to KOPOLOW
2 informing KOPOLOW that PLAINTIFF was represented by counsel in connection with the
3 alleged debt.

4 16. On or about June 1, 2012, KOPOLOW sent a letter to PLAINTIFF's counsel
5 confirming receipt of PLAINTIFF's counsel's May 29, 2012 letter.

6 17. On or about June 13, 2012, KOPOLOW sent another letter to PLAINTIFF at the
7 Nevada State Bank address.

8 18. In communicating with PLAINTIFF, DEFENDANTS misrepresented the
9 character, amount, and/or legal status of alleged debt in violation of the FDCPA.

10 19. As a result of the acts and omissions of the DEFENDANTS, PLAINTIFF has
11 been forced to hire counsel to prosecute this action and to incur attorney fees and costs.

12 20. PLAINTIFF is informed and believes and therefore alleges that PLAINTIFF may
13 have suffered damages in other ways and to other extents not presently known to PLAINTIFF,
14 and not specified herein. PLAINTIFF reserve the right to assert additional facts and damages
15 not referenced herein, and/or to present evidence of the same at the time of trial.

16
17
18 **FIRST CLAIM FOR RELIEF**

19 **VIOLATION OF THE FDCPA 15 U.S.C. § 1692e(2)**
20 **(against all Defendants)**

21 21. PLAINTIFF repeats, re-alleges, and incorporates by reference, paragraphs 1
22 through 20 inclusive, above.

23 22. Section 1692e of the FDCPA states in pertinent part:

24 A debt collector may not use any false, deceptive, or misleading
25 representation or means in connection with the collection of any
26 debt. Without limiting the general application of the foregoing, the
27 following conduct is a violation of this section:

28 * * *

 (2) The false representation of—

 (A) the character, amount, or legal status of any debt....

1
2 23. In attempting to collect an alleged consumer debt, KOPOLOW, acting agent for
3 CACH, misrepresented the amount and/or legal status of the debt.

4 24. As a result of the violations by DEFENDANTS, PLAINTIFF is entitled to
5 statutory damages plus actual damages to be shown specifically at the time of trial.

6 25. It has been necessary for PLAINTIFF to obtain the services of an attorney to
7 pursue this claim and PLAINTIFF is entitled to recover reasonable attorneys' fees therefor.

8
9 **SECOND CLAIM FOR RELIEF**

10 **VIOLATION OF THE FDCA 15 U.S.C. § 1692c(a)(1)**
11 **(against all Defendants)**

12 26. PLAINTIFF repeats, re-alleges, and incorporates by reference, paragraphs 1
13 through 25 inclusive, above.

14 27. 15 U.S.C. § 1692c(a) states, in pertinent part,

15 Without the prior consent of the consumer given directly to
16 the debt collector or the express permission of a court of
17 competent jurisdiction, a debt collector may not
18 communicate with a consumer in connection with the
19 collection of any debt—

20 (1) at any unusual time or place or a time or place known or
21 which should be known to be inconvenient to the
22 consumer....

23 28. KOPOLOW, acting as agent for CACH, sent at least two communications to
24 PLAINTIFF at Nevada State Bank's address, an address that does not and has never belonged to
25 PLAINTIFF. In so doing, KOPOLOW communicated with PLAINTIFF at a place which it knew
26 or should have known would be inconvenient to PLAINTIFF in violation of 15 U.S.C. section
27 1692c(a)(1).

28 29. As a result of the violations by DEFENDANTS, PLAINTIFF is entitled to
statutory damages plus actual damages to be shown specifically at the time of trial.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF respectfully prays that this Court grant the following relief in PLAINTIFF'S favor and that judgment be entered against DEFENDANTS for the following:

- (1) For statutory damages pursuant to 15 U.S.C. § 1692k;
- (2) For actual damages incurred by PLAINTIFF pursuant to 15 U.S.C. § 1692k;
- (3) For reasonable attorney fees for all services performed by counsel in connection with the prosecution of these claims;
- (4) For reimbursement for all costs and expenses incurred in connection with the prosecution of these claims; and
- (5) For any and all other relief this Court may deem appropriate.

DATED this 16th day of August 2012.

THE BOURASSA LAW GROUP, LLC

/S/ MARK J. BOURASSA, ESQ.

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